

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BASHIR NASHIR AL-MARWALAH,)
et al.)
Petitioners,)
v.) Civil Action No. 04-CV-1194 (HHK)
GEORGE W. BUSH,)
President of the United States, *et al.*,)
Respondents.)
_____)

DECLARATION OF JAMES R. CRISFIELD JR.

Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Bashir Nashir Al-Marwalah that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted information that would personally identify certain U.S. Government personnel in

order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 30 Sep 04



James R. Crisfield Jr.
CDR, JAGC, USN



**Department of Defense
Director, Combatant Status Review Tribunals**

OARDEC/Ser: 140
24 September 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final, and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

FOR OFFICIAL USE ONLY

24 Sep 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #5 of 17 August 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

a. The detainee was properly notified of the Tribunal process, was present for the unclassified portion of the Tribunal, and made a sworn statement.

b. The Tribunal was properly convened and constituted by enclosure (1).

c. The Tribunal complied with the provisions of references (a) and (b).

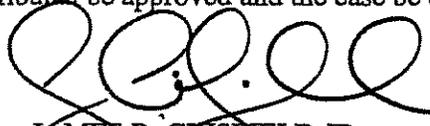
d. The detainee made no requests for witnesses or additional evidence.

e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.


JAMES R. CRISFIELD JR.
CDR, JAGC, USN



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

22 September 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #5

(U) ISN#:

Ref: (a) (U) Convening Order for Tribunal #5 of 27 Aug 2004] (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 20 Sep 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of or affiliated with al Qaida and was part of or supporting the Taliban, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]
[REDACTED] Col, USAF
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #5

ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant. Specifically, the Tribunal finds he is a member of, or affiliated with al Qaida, and was part of or supporting the Taliban. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified summary of evidence presented to the Tribunal by the Recorder indicated that the detainee voluntarily traveled from Yemen to Afghanistan to receive training in the Al Farouq training camp and while he was there learned to use a variety of weapons, including the Kalishnakov rifle, RPK machine gun, and the Seminov rifle. The unclassified summary also indicated that the detainee later trained at the Malek Military Center where he received instruction on a number of other weapons. He went home to Yemen, then voluntarily returned to Afghanistan in August 2001 to obtain additional weapons training. Finally, the unclassified summary indicated that the detainee traveled to the front line near Bagram, Afghanistan, retreated with others, and fled to Pakistan where he was captured in a raid on an apartment on September 11, 2002. The detainee called no witnesses and requested no documents be produced. He made a sworn verbal statement. The detainee, in his statement, said that all the information contained in Exhibit R-1 (unclassified summary of the evidence) was essentially correct, with the exception of Paragraph 3(b)(1). The detainee's statement will be explained in more detail in paragraph 5.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-9.
- b. Sworn statement of the detainee

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witnesses; no rulings were required.

The Detainee requested no additional evidence be produced; no rulings were required.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's sworn testimony. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). During his statement, the detainee responded to Exhibit R-1, the unclassified summary of the evidence, point by point. With only minor clarifications, the detainee agreed that all but one of the evidentiary statements in this document are correct. The minor clarifications were not of an exculpatory nature and can be reviewed in enclosure (3). The detainee did, however, claim that paragraph 3(b)(1) is incorrect. He said that he never traveled to the front lines. He maintains that he was on the "back line" of the battle rather than the "front line." The detainee further stated that he was trained as a sniper, and considers himself to be an "Arab fighter." He claimed that his goal was to travel to Chechnya to fight there. Finally, he said that after he retreated in Afghanistan, he went to Pakistan where he waited for eight months, moving from house to house hoping to eventually go back to Yemen. He was then arrested and sent to Guantanamo Bay, Cuba. The Tribunal found the detainee's testimony helpful in clarifying his intentions and motivations, but thought the detainee was rather evasive on the subject of who he was affiliated with and why. His admissions that he was an Arab fighter and has received a great deal of training on various weapons from several known al Qaida and Taliban training camps were helpful in making our determination that the detainee is properly classified as an enemy combatant. On the other hand, the detainee's claim that he is not a member of al Qaida and, in fact, doesn't even know what al Qaida is were hard to believe in light of the other admissions he made. The Tribunal also found his claim that he intended to travel to Chechnya dubious in that he never made any effort to actually go there either before or after he received his training. Even after he retreated from Afghanistan he made no effort to travel to Chechnya – he simply "waited" in Pakistan for eight months with no job or other obvious means of support. In sum, the Tribunal finds it much more likely that the

UNCLASSIFIED//FOUO

detainee was trained by al Qaida to be a fighter and was simply waiting in Pakistan for his orders.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.

b. The detainee understood the Tribunal proceedings. When asked, he indicated that he understood the process and asked no questions regarding his rights. He actively participated in the hearing.

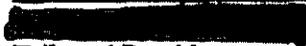
c. The detainee is properly classified as an enemy combatant in that he is a member of, or affiliated with, al Qaida and was part of or supporting the Taliban.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



 Col, USAF
Tribunal President

UNCLASSIFIED//FOUO

ISN # 
Enclosure (1)
Page 3 of 3

UNCLASSIFIED / FOUO

Summarized Sworn Detainee Statement

When asked by the Tribunal President the detainee stated he understood the CSRT process and he did not have any questions.

When asked by the Tribunal President if the detainee had anything to add regarding the unclassified summary, the detainee stated, "I never moved to the front lines."

[At this point the Tribunal President clarified his previous question and asked the detainee if he wanted to make a statement under oath.] The detainee indicated that he did wish to make his statement under oath and was sworn by the Recorder. He then testified essentially as follows:

"The statement I moved to the front line and participated in the fight against the Northern Alliance is not correct."

[The Tribunal President then asked the detainee if that concluded his statement. The detainee stated that it did. The Personal Representative (PR) then informed the President that the detainee preferred to be prompted by the PR to respond to specific items in the unclassified summary. The President indicated that the PR should proceed in that manner.]

Summarized Answers in Response to Questions by the Personal Representative

[The Personal Representative read directly from the Unclassified Summary and the detainee provided the following responses:]

Q. The detainee voluntarily traveled from Yemen to Afghanistan in September 2000.

A. Yes.

Q. While waiting for transportation to Afghanistan, the detainee stayed at a safe house.

A. The place I stayed at was referred to as an office.

Q. The detainee attended the Al-Farouq training camp in September 2000.

A. Yes.

Q. At the Al-Farouq training camp, the detainee was trained on the Kalashnikov, RPK Machine gun, and the Semenov Rifle.

A. Yes.

ISN # [REDACTED]
Enclosure (3)
Page 1 of 6

UNCLASSIFIED / FOUO

UNCLASSIFIED / FOUO

Q. The detainee then trained at the Malek Military Center, where he received training on the Makarov Pistol, Dragonov Sniper Rifle, PK Machine-gun, RPGs, hand grenades, and map reading.

A. Regarding the map reading, they only taught me to read North, South, East and West.

Q. Following the training, the Detainee returned to Yemen, then again voluntarily traveled back to Afghanistan in August of 2001.

A. Yes. I do not know the name of each month. I refer to them as the first month, second month, etcetera. Since I am not sure of the names, it is possible it was a different month, but I know it was the eighth month.

Q. The detainee returned to the Al-Farouq training camp, where he received specialized training in positional shooting with AK-47s.

A. Yes. I attended, but I don't know if it is considered specialized training. They just taught me how to walk and sit with a weapon.

Q. The detainee participated in military operations against the coalition.

A. Not correct.

Q. The detainee participated in the retreat from Omar Seif Center, Afghanistan.

A. Yes.

Q. The detainee then fled to Karachi, Pakistan where he was captured during a raid on an apartment on September 11, 2002.

A. Yes.

Q. Why did you travel to Afghanistan?

A. To train.

Q. To fight against whom?

A. The Chechnyans.

Summarized Answers in Response to Questions by the Tribunal Members

Q. You went from Yemen to Afghanistan?

A. Yes.

ISN # [REDACTED]
Enclosure (3)
Page 2 of 6

UNCLASSIFIED / FOUO

UNCLASSIFIED / FOUO

Q. Can you tell me how you traveled there?

A. I went by airplane from Yemen to Pakistan to Afghanistan.

Q. Where in Pakistan did you stay?

A. I went to the Dastar Taliban (office) in Ramsta.

Q. In Afghanistan-do you remember which city?

A. Yes. ~~Kutah~~

Q. You knew there were Taliban in the office and you were going to train with the Taliban?

A. There are rooms with Afghans who just wait there until they go somewhere else.

Q. Did anyone help you get to Pakistan and then to Afghanistan?

A. Afghans.

Q. Did they give you money, a plane ticket, how did they do it?

A. No.

Q. You used your own money to go to Afghanistan?

A. Yes.

Q. What do you do in Yemen?

A. I study.

Q. You are a student?

A. Yes.

Q. Do you study the Koran?

A. I used to study nursing.

Q. Once you got into Afghanistan, what city did you go to?

A. Kandahar.

Q. And then you went to training at Al-Farouq?

ISN # 
Enclosure (3)
Page 3 of 6

UNCLASSIFIED / FOUO

3887

UNCLASSIFIED / FOUO

A. Yes.

Q. Did you train with the Taliban in Al-Farouq?

A. I trained with all of them, the Arabs, foreigners, but not the Afghans.

Q. Are you a member of al Qaida?

A. I don't know. I know I am an Arab fighter.

Q. An Arab fighter-and you went to Al-Farouq to fight knowing you were going to go to Chechnya?

A. I went to train and go to Chechnya.

Q. Do you remember when you were in Al-Farouq ever seeing Usama Bin Laden?

A. No.

Q. Do you know what al Qaida is?

A. No, I don't know. I've seen things on television.

Q. Are you trained as a sniper?

A. Yes.

Q. Did you ever fire your weapon in combat other than training?

A. Only for training. I trained with a person.

Q. What weapon did you use when you were a sniper?

A. Dragonov, four years ago.

Q. Do you remember who ran the training camp where you trained?

A. Yes.

Q. Who?

A. In Al-Farouq, there were several trainers. Malek Hakeem use to train me.

Q. After your training in Al-Farouq, why did you go back to Yemen?

ISN # [REDACTED]
Enclosure (3)
Page 4 of 6

UNCLASSIFIED / FOUO

3888

UNCLASSIFIED / FOUO

- A. I wanted to see my family. My father was sick and I wanted to finish my studies.
- Q. Did you finish your studies?
- A. When I go back, I will finish.
- Q. Then you decided to go back to Afghanistan after you saw your father, is that correct?
- A. Yes, but I don't know exactly what you mean.
- Q. Why did you go back?
- A. So I could fight the Chechnyans.
- Q. You said you didn't travel to the front line near Bagram?
- A. Yes.
- Q. But you were retreating from the Omar Seif Center?
- A. Yes.
- Q. Where were you retreating from when you were involved in that retreat?
- A. I retreated from Omar Seif to Kabul. I was not on the front lines. I retreated from the back lines.
- Q. What happened when you were captured?
- A. I was brought to Cuba.
- Q. You fled to Pakistan, true or not true?
- A. What do you mean?
- Q. You previously stated that after you retreated you went to Pakistan.
- A. Yes.
- Q. How long were you there before you were captured?
- A. Eight to ten months.
- Q. What were you doing in Pakistan?
- A. I was sitting in a house.

ISN # [REDACTED]
Enclosure (3)
Page 5 of 6

UNCLASSIFIED / FOUO

3889

UNCLASSIFIED / FOUO

Q. Were you waiting for something to happen?

A. I was planning to go back to Yemen.

Q. How were you captured?

A. The Pakistanis came in and arrested me.

Q. Who were you with when you were arrested?

A. There were two people with me. One was (inaudible) and the other was Amir.

Q. Were those people also brought to Guantanamo?

A. They were arrested, but I haven't seen them.

The Tribunal President asked the Detainee if he had any other evidence to present to this Tribunal.

[The detainee stated:] I can swear to you, I am not quite sure what to say. I was not fighting, nor did I want to fight Americans. The Americans were very far from where I was fighting and I am from Yemen. The Americans did not do anything to give me a reason to fight them.

Q. Personal Representative do you have any other evidence to present to this Tribunal?

A. No.

[After the Personal Representative said no, and the President concluded the tribunal session, the detainee interrupted and stated:] "Osmah Embe and Humam Yahmen Ami were also trainers in the Al-Farouq training camp."

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.

[REDACTED]

[REDACTED] Col, USAF
Tribunal President

ISN # [REDACTED]
Enclosure (3)
Page 6 of 6

UNCLASSIFIED / FOUO

FOUO

Recorder Exhibit List
For
ISN [REDACTED]

#	Title	Classification
R1	Unclassified Summary	UNCLASSIFIED
R2	FBI Request for redaction dtd 9 SEP 04	UNCLASSIFIED
R3	FBI FD-302 29OCT02	FOUO//LES
R4	000837 Knowledgeability Brief	SECRET
R5	JTF GTMO Baseball Card	SECRET//NOFORN
R6	CITF Memo dtd 26 May 04	SECRET//NOFORN
R7	TD-314/45194-02	SECRET//NOFORN
R8	TD-314/37103-02	SECRET//NOFORN
R9	Capture event	SECRET

FOUO

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (8 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal –
AL-MARWALAH, Bashir Nasir

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is an al Qaida fighter.
 - a. The detainee is an al Qaida fighter:
 1. The detainee voluntarily traveled from Yemen to Afghanistan in September 2000.
 2. While waiting for transportation to Afghanistan, the detainee stayed at a safehouse.
 3. The detainee attended the Al Farouq training camp in September 2000.
 4. At the Al Farouq training camp, the detainee was trained on the Kalishnikov, RPK Machine-gun, and the Seminov Rifle.
 5. The detainee then trained at the Malek Military Center, where he received training on the Makarov Pistol, Dragonov Sniper Rifle, PK Machine-gun, RPGs, hand grenades, and map reading.
 6. Following his training, the Detainee returned to Yemen, then again voluntarily traveled back to Afghanistan in August of 2001.
 7. The detainee returned to the Al Farouq training camp, where he received specialized training in positional shooting with AK-47s.

UNCLASSIFIED

Page 1 of 2

EXHIBIT

B-1
3893

UNCLASSIFIED

b. The detainee participated in military operations against the coalition.

1. The detainee traveled to the front line near Bagram, Afghanistan.
2. The detainee participated in the retreat from Omar Seif Center, Afghanistan.
3. The detainee then fled to Karachi, Pakistan where he was captured during a raid on an apartment on September 11, 2002.

4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Page 2 of 2

3894

Memorandum



To : Department of Defense Date 09/09/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
[REDACTED]

Subject: REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
(ISN [REDACTED])

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 10/29/2002

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/09/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED],
[REDACTED] or Intelligence Analyst
[REDACTED].

Personal Representative Review of the Record of Proceedings

I acknowledge that on 21 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED].

I have no comments.

My comments are attached.

[REDACTED] Lt Col USAF
Name

21 Sep 2004
Date

[REDACTED]

ISN # [REDACTED]
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MUSAB OMAR ALI AL MUDWANI,)
)
 et al.)
)
 Petitioners,)
)
 v.) Civil Action No. 04-CV-1194 (HHK)
)
)
 GEORGE W. BUSH,)
 President of the United States, *et al.*,)
 Respondents.)
)
)
 _____)

DECLARATION OF JAMES R. CRISFIELD JR.

Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

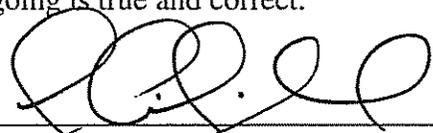
1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Musab Omar Ali Al Mudwani that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached

hereto. I have redacted any personally identifying information regarding the detainee's family and information that would personally identify certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 5 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser:
1 October 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final, and the detainee will be scheduled for an Administrative Review Board.

A handwritten signature in black ink, appearing to read "J. M. McGARRAH".

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

FOR OFFICIAL USE ONLY

3900

30 Sep 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #6 of 13 September 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibits R-4 and R-5 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee made no requests for witnesses or other evidence.
- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.



James R. Crisfield Jr.
CDR, JAGC, USN

UNCLASSIFIED

3901



Department of Defense
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #6

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED] Colonel, U.S. Army; President

[REDACTED], Commander, JAGC, U.S. Navy; Member (JAG)

[REDACTED], Lieutenant Colonel, U.S. Marine Corps;
Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

28 September 2004

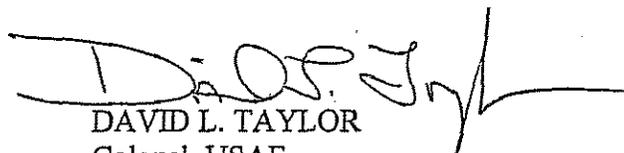
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #6

(U) ISN#:

Ref: (a) (U) Convening Order for Tribunal #6 of 13 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee Testimony (U/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

2. (U) On 23 September 2004, the Tribunal determined, by a preponderance of the evidence, that Detainee # is properly designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, Al Qaida forces, as more fully discussed in the enclosures.

4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).


Colonel, U.S. Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #6
ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and was part of or supporting Al Qaida forces. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The Tribunal hearing was held on 23 September 2004. The Recorder presented the unclassified exhibits, including Exhibit R-1, the Unclassified Summary of Evidence, during the unclassified portion of the Tribunal. It indicates, among other things, that the detainee was recruited in July 2001 to go to Afghanistan to train and fight; the detainee trained at the Al Farouq training camp near Kandahar, Afghanistan, for 25 days and learned to use various small weapons; the detainee saw Usama Bin Laden several times and at various training facilities during his time in Afghanistan; the detainee left the Al Farouq camp on a military bus with 25 other students and went to Kabul, which fell 3 days later; and, after the fall of Kabul, the detainee went to Pakistan, where he was captured by Pakistani police after a shoot-out on 11 September 2002. The Recorder called no witnesses.

The detainee participated actively in the Tribunal process. After being sworn, he responded to each of the assertions on the Unclassified Summary of Evidence, and then answered questions posed by the Personal Representative and the Tribunal. The detainee's sworn testimony is summarized in Enclosure (3) to the CSRT Decision Report. In sum, the detainee indicated he went to Afghanistan not to fight, but to check out the situation. He did receive small weapons training at the Al Farouq camp, which he attended for 25 days. The trainees were given the opportunity to leave after the 11 September 2001 attacks out of concern that there might be problems, so the detainee and approximately 25 others left on a civilian bus to Kabul. Three days after he arrived in Kabul, the city fell, so he made his way to Pakistan. He was arrested in Pakistan after the Pakistani police stormed the apartment he was staying in. The detainee called no witnesses and presented no other evidence.

During the classified session of the Tribunal, the Recorder presented Exhibits R-4 through R-27. The Personal Representative presented no exhibits, but did comment on the evidence. The Tribunal considered both the unclassified and classified exhibits, and the detainee's testimony, in reaching its decision.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-27, and D-A.
- b. Testimony of the following persons: None.
- c. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witnesses.

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. The Recorder also offered Exhibit R-3 into evidence, which is an affidavit from the detainee's brother in Yemen. In the affidavit, the detainee's brother indicates the detainee went to Pakistan to study. The Tribunal considered this affidavit in reaching its decision regarding the detainee's status as an enemy combatant.

c. The only other unclassified evidence the Tribunal had to consider was the detainee's sworn testimony. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). As noted above in paragraph 2, the detainee testified that he went to Afghanistan to check out the situation, not to fight. He

attended the Al Farouq camp for 25 days and received small weapons training. He was given the opportunity to leave Al Farouq after the 11 September 2001 attacks in the United States out of concern that there might be problems, so he and approximately 25 others left on a civilian bus to Kabul. Three days after he arrived in Kabul, the city fell, so he made his way to Pakistan. He was arrested in Pakistan after the Pakistani police stormed the apartment he was staying in. He testified that no one in his apartment tried to resist, and that the police thanked them for not resisting. He states that persons in the adjacent apartment resisted, and a gun battle ensued. The detainee stated that he never went to the front lines while he was in Afghanistan, and never had a weapon, except for when he was training at the Al Farouq camp. He specifically stated that there were no weapons in the apartment room where he was captured.

The Tribunal did not believe the detainee's story that he went to Afghanistan merely to check out the situation. The Tribunal believed he went to Afghanistan to train and fight, as asserted on the Unclassified Summary of Evidence and as evidenced by his attending the Al Farouq training camp shortly after his arrival in country. Furthermore, the detainee portrayed his escape to Pakistan as something that took a matter of days, when, in fact, he left his activities unaccounted for an entire year. After considering the unclassified evidence and testimony, and the classified evidence, the Tribunal concluded that the detainee is properly classified as an enemy combatant because he was part of or supporting Al Qaida forces. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings. He had no questions regarding his rights and actively participated in the hearing.
- c. The detainee is properly classified as an enemy combatant and was part of or supporting Al Qaida forces.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large black rectangular redaction box covering the signature of the Tribunal President.

Colonel, U.S. Army
Tribunal President

Summarized Detainee Statement

Tribunal President: Musad Omar, you may now present any evidence you have to the Tribunal and you have the assistance of your Personal Representative in doing so. Do you want to present evidence to the Tribunal?

Detainee: I would like to clarify some things.

Tribunal President: Would you like to make your statement under oath?

Detainee: Yes.

Tribunal President: Recorder will you please give him the oath?

The Detainee was sworn using the Muslim oath. The Detainee testified to the Tribunal in substance as follows:

Tribunal President: Musad Omar, you may begin.

Personal Representative: Madam President, the Detainee and I have talked previously. I have prepared questions so I can refresh the Detainee's memory.

Tribunal President: Okay. Would the Detainee like to respond to the unclassified summary in his hand first; or would the Detainee like the Personal Representative's questions first?

Detainee: Whatever you prefer. It is not a problem.

Tribunal President: The Detainee will go first, and then respond to the questions.

A translated copy of the unclassified summary was handed to the Detainee for reference. The Detainee proceeded to address each point on the Unclassified Summary of Evidence in order. To put his comments into context, the points from the Unclassified Summary of Evidence are provided below in italics. The detainee's comments follow each point (summarized).

3.a. The detainee is an Al Qaida fighter.

1. In July 2001, Al Mudwani was recruited by two men, who identified themselves as former mujahid, to go to Afghanistan and train to fight.

Detainee: First of all, the two men did not identify themselves to me. One of the men lived in the same neighborhood as me. The other man was his friend. They would talk to me, but they never said they were in Afghanistan before. In regards to going to Afghanistan to train how to fight; I went to see and observe the situation. Not for the

UNCLASSIFIED//FOUO

purpose of fighting. There was no fighting going on at that time. I left before the events of 9/11.

2. *The detainee stated that he stayed at the Daftar Al-Taliban guesthouse for four hours, prior to going to Kandahar, where he stayed at the Madafat Al-Nibras guesthouse, where he was fed and given new clothes.*

Detainee: I was only given food. I was not given any new clothes. I was traveling so I already had my clothes with me. It was impossible that I would have gone there without clothes.

3. *The detainee stated after seven (7) days at the guesthouse in Kandahar, he traveled to the Al Farouq training camp, a known Taliban training camp.*

Detainee: This allegation is correct.

4. *The detainee stated that he received training on the Kalashnikov rifle, pistol, BEKA, RPG, and the Magnoona. The detainee stated that he only trained for twenty-five (25) days because the camp closed due to the U.S. bombing campaign.*

Detainee: I trained on the Kalashnikov rifle, that is correct. The pistol, that is correct. The BEKA, that is correct. The RPG, I just saw it. I never received training on the RPG. The Magnoona is the Kalashnikov. The only difference is that it has an additional metal piece. Like a base that you rest the Kalashnikov on. It has an extra piece on there. I only received training for about twenty to twenty five days. There was no bombing. It was the first day of the events of 9/11. The people at the camp said if anyone wanted to leave, we were free to leave. There might be problems and there might be bombings; so if you don't want any problems, just go. If you want to stay, then you can stay. I did not want any problems, so I just left because my objective was not to fight when I went there.

5. *The detainee stated that he saw Usama Bin Laden (UBL) several times and at various training facilities during his time in Afghanistan and last saw Bin Laden in Khowst about a month before the fall of Kabul.*

Detainee: I only saw Bin Laden once at that training camp. Bin Laden was visiting the training camp and I saw Bin Laden from about thirty, to forty, to fifty meters away. He was very far away. The second time I saw Bin Laden was in Khowst during the events. Bin Laden would pass through all the villages to see the people. Bin Laden also passed in front of us, but there were many people present at the time. They were all civilians. The various training camps is not correct. I received training in one place only. It is correct that I did see Bin Laden a second time in Khowst. It was one month before Kabul fell, that was correct. All and all, it was only two times I saw Bin Laden.

3.b. *The detainee participated in military operations against the coalition.*

Detainee: This is not true. I did not even go to any of the front lines.

1. *The detainee stated that he left Al Farouq on a military bus with twenty-five (25) other students from Al Farouq and went to Kabul.*

Detainee: I left the training camp on a regular truck from Al Farouq to Kandahar. It was about a two or three hour ride. Then I completed the trip from Kandahar to Kabul on a civilian bus. Twenty-five of my friends were in the same group. They were not Taliban.

2. *The detainee stated he went to Kabul and three days after his arrival, Kabul fell.*

Detainee: This is correct.

3. *After the fall of Kabul, the detainee went to Pakistan where he was captured by the Pakistani police, after a shoot-out, on September 11, 2002.*

Detainee: The police stormed the house around eight o'clock in the morning. There were two apartments. The apartment I was in, there was no shoot-out or any resistance. But we surrendered immediately. They have my fingerprints. You can look at them if you want to verify this. The Pakistani police, they have everything. The Pakistani police thanked the group I was in the apartment with for not resisting and they never charged us with anything. The resistance was in the apartment next to us in the same building. That is all I have.

Tribunal President: Musab Omar, does that complete your statement?

Detainee: Yes, that is what I have.

Tribunal President: Personal Representative, do you have any questions for the detainee?

Personal Representative: Yes, Ma'am. I do, but not quite as many because the detainee has covered most of our conversation. When you were in Yemen prior to leaving, you were given a ticket to go and observe the cultural conditions under the Taliban in Afghanistan.

Detainee: Yes, under the Taliban - how the Muslims were doing under the Taliban. There were rumors that these were evil or bad people. In Islam, you cannot judge another Muslim unless you see it with your own eyes. As for myself, the expenses were covered by someone that was doing good. So I said I did not have anything to lose. I planned to go for one month. I had a visa for one month only. I wanted to see how things were and come back home. When the events happened, I still had a few days left on the visa. The roads were closed and I could not leave.

UNCLASSIFIED//FOUO

Personal Representative: When you left camp and went to Kabul for three days, what was the purpose for being in Kabul?

Detainee: Kandahar was very crowded. So I thought I would go to Kabul because it was bigger. After I left Kabul, I was going to go to Khowst because it was close to the border. My intention was to leave for Pakistan. Khowst was safer. There was no fighting going on there.

Personal Representative: While in Pakistan, you were waiting in the apartment with several others. What were you waiting for?

Detainee: We were waiting for things to calm down and to become stable. We were also waiting for the Pakistani police to stop searching everywhere because our visas had expired. We could not move around legally. So we stayed until we could maybe get to the Yemeni embassy, but we couldn't. The police were searching everyone. There was no negotiation or talking. They would just arrest people. So we stayed at the apartment until we could find the closest opportunity. We did not even have enough money for the tickets.

Personal Representative: I have no further questions.

Tribunal President: Recorder, do you have any questions for the detainee?

Recorder: No, Ma'am.

Tribunal President: Do any of the Tribunal Members have any questions for the detainee?

Tribunal Member: Are you an Al Qaida fighter?

Detainee: No, never. I never followed them, I never stood on the lines, nothing.

Tribunal Member: When you received weapons training at Al Farouq, who gave the training? Were they Taliban or Al Qaida?

Detainee: Arabs. It had to be Arabs because I do not understand the language of the Taliban.

Tribunal Member: Do you know what the association of the Arabs were?

Detainee: They said they were just people that were giving the training. They did not have any affiliation with anyone. Talk about politics was forbidden in the camp.

ISN # [REDACTED]
Enclosure (3)
Page 4 of 11

UNCLASSIFIED//FOUO

3912

UNCLASSIFIED//FOUO

Tribunal Member: If you were going to Afghanistan to observe the cultural conditions, why then get all the training on weapons?

Detainee: When I got to Afghanistan, I was with Pakistani people. They moved me to Dafter Al-Taliban. I did not know the situation. So I went to Dafter Al-Taliban. They took me in, then told me to go to Al-Nibras. They were Taliban. I did not know their language and what they were talking about. So they took me to Al-Nibras. I could not leave. They took my passport, money and everything. They said just sit there. I told them based on what, and they said just sit there. After a week, I kept insisting on asking what was going on and why I was there. We got on a bus and they took us to the camp. They told us that anyone who goes into Afghanistan goes through the camp. Since I was there I had to get the training. There was no fighting, nothing.

Tribunal Member: When you were leaving the Al Farouq camp, the twenty-five people you were with?

Detainee: These were other people who refused to just sit along with me.

Tribunal Member: Okay. Were those people carrying weapons?

Detainee: No.

Tribunal Member: When you turned yourself in to Pakistani police, were there any weapons in your apartment room?

Detainee: The people who resisted had weapons in that apartment.

Tribunal Member: Your room did not have any weapons?

Detainee: My room did not have any weapons.

Tribunal Member: When you were going through Pakistan to go back home, were you doing so on your own accord, or were you following orders from another person?

Detainee: It was me, but I was getting advice from the Pakistanis. I did not know the area and I had no money. So I would ask around and they would help me.

Tribunal Member: The people that you were arrested with in Pakistan, were they all from the Al Farouq camp with you?

Detainee: No, I did not meet them until I went to Pakistan. They were all from Yemen with expired passports. Same situation as mine. The Pakistanis rounded up all the people like me that had issues or problems with their visa. We were all put in one place.

Tribunal Member: Was that before or after they stormed the apartment?

ISN # [REDACTED]
Enclosure (3)
Page 5 of 11

UNCLASSIFIED//FOUO

3913

UNCLASSIFIED//FOUO

Detainee: How do you mean?

Tribunal Member: When you went to the apartment where you were staying, did you do that on your own or did the Pakistanis send you to that apartment?

Detainee: I went there on my own. A Pakistani family told me to go to that place.

Tribunal Member: How many people were staying in those two apartments?

Detainee: Five or six people and a Pakistani family.

Tribunal Member: Were any of those people from Al Farouq?

Detainee: No, not at all.

Tribunal Member: Did you have your passport at that time?

Detainee: Yes. I took it from the Pakistani (sic) government.

Tribunal Member: Where and how did you get your passport?

Detainee: The Pakistani police, when they stormed the house they took the passport, money and everything we had.

Tribunal Member: I thought you said earlier when you went to Al Farouq, they took all your papers, money, everything so you couldn't leave?

Detainee: After I left Al Farouq, they gave me everything back. I said that and wrote that down in the interrogations.

Tribunal Member: Who did you stay with in Kabul after leaving Al Farouq?

Detainee: After I left Al Farouq during the bombings, there were places or houses you could go to. Anyone that had a place to stay or hide, I would stay with them.

Tribunal Member: How did you know what houses to go to stay?

Detainee: I went with the group of twenty-five and the driver was asking. The driver knew where to go.

Tribunal Member: When you were in Kabul, did you have a weapon?

Detainee: No.

ISN # [REDACTED]
Enclosure (3)
Page 6 of 11

UNCLASSIFIED//FOUO

3914

UNCLASSIFIED//FOUO

Tribunal Member: Did any of the people you were with in Kabul have weapons?

Detainee: We did not stay in Kabul, all of us together. After we got to Kabul all of us got separated. Five went here. Three went there. Everyone just went their own way.

Tribunal Member: Were the houses you stayed in Kabul, were they also housing fighters?

Detainee: No. They were civilian houses of people who were afraid of the bombing.

Tribunal Member: How did you get from Kabul to Pakistan?

Detainee: I went from Kabul to Khowst. To the Pakistani border.

Tribunal Member: How did you travel? What means?

Detainee: Buses.

Tribunal Member: How did you get the money to travel?

Detainee: The bus drivers were helping out the people that needed to go somewhere.

Tribunal Member: Earlier you said all the roads were closed and that was why you could not leave. How were you able to travel on the roads?

Detainee: Inside of Afghanistan. From Kabul to Khowst, Afghanistan, it was internal. We didn't go through official roads, we went through the mountains.

Tribunal Member: Were you on foot going through the mountains?

Detainee: Sometimes with the cars, sometimes with walking.

Tribunal Member: Who were you traveling with when you went through the mountains?

Detainee: A group of Arabs, Afghans, Pakistanis and other people.

Tribunal Member: Was this Tora Bora mountains?

Detainee: No, Khowst. I stated it before in detail. If you would like for me to go more into detail, I will tell you.

Tribunal Member: Yes, please tell me how you got out.

ISN [REDACTED]
Enclosure (3)
Page 7 of 11

UNCLASSIFIED//FOUO

3915

UNCLASSIFIED//FOUO

Detainee: From Khowst to a place called Zurmat. From Zurmat to a place called Bormal (phonetic). After that, a place right on the border, a small village. Then to a place called Bennam (phonetic). This was the first place in Pakistan. That is how I got to Pakistan.

Tribunal Member: How did you know to go to these places?

Detainee: There were Afghans and Pakistanis helping out people.

Tribunal Member: Were any of these Afghans and Pakistanis fighters?

Detainee: No, no, no. The people were just helpers. They were people who lived there. People who lived in one place would take us to the next place and go back home.

Tribunal Member: Why would these people help you?

Detainee: They were Muslims.

Tribunal Member: Have you always told the same story since you have been detained?

Detainee: I have told the same story from Pakistan to the prison that was underground. The Americans were there underground. Then in Bagram, I said the same thing. And here, after over one hundred interrogations, I have said the same thing. The interrogators thank me.

Tribunal Member: Did you ever carry weapons or fight against the Northern Alliance or the United States?

Detainee: No. I have never fought against Afghans or Americans.

Tribunal President: In your statement, you said the two men who recruited you were friends of yours. Were they members of the Taliban or Al Qaida?

Detainee: No, no, no. They were not friends of mine. One of them lived in the same place I was living. He saw me everyday when I would walk to school. The second guy was the first guy's friend.

Tribunal President: Do you know if those two people that recruited you were members of Al Qaida or Taliban?

Detainee: No. They were against the Al Qaida. They would warn me not to get into anything political.

Tribunal President: Those two men wanted you to go to Afghanistan to view what was going on, to see the new Government? Can you explain that further?

ISN [REDACTED]
Enclosure (3)
Page 8 of 11

UNCLASSIFIED//FOUO

3916

UNCLASSIFIED//FOUO

Detainee: There were rumors coming to Yemen that Afghanistan had a racist Government. It was Muslim by name. They said there were no Muslims except for the people in Afghanistan - that anyone not Afghani was not a Muslim. But those two people said this statement was not true. Afghanistan was fair. That black people like white people - Islam rules all of Afghanistan. Islam ruled over everyone; the poor, the rich, the powerful, the weak. There is poverty and hunger. So the two men told me to go and see the situation and come back and talk to the people - tell them if yes it is true and it is a Muslim place. Then if anyone could offer help to the Afghan people with medical, teaching, learning, with money. Things like that.

Tribunal President: Why was it important for you to go to Afghanistan? What were you going to do there? What did you feel like you were going to do there?

Detainee: I just wanted to go. Curiosity, nothing more. I did not know the results would turn out like this.

Tribunal President: When you received the training on the weapons, were you forced to take the training?

Detainee: They just took me. I did not know anything. I did not know the language. I did not know the people. I did not know anything. Without my passport, or money or my tickets, I could not do anything. So I just did what they wanted so I could get my stuff back. If I went and did not do anything, they may have accused me of spying. So I just took the training on the Kalashnikov and pistols. It seemed normal. We have these things in Yemen. It is not a big deal.

Tribunal President: Why didn't you try to leave before getting to the camp?

Detainee: The camp is away from the city, about two hours in an isolated location. It was between mountains. There were Afghan guards all around. I did not know my way around, I did not know what was going on. I just went where the people were going.

Tribunal President: When it was time for you to leave the camp, did you have to have permission to leave; or did a group of people decide to leave?

Detainee: There was a group that decided to leave and I was one of them.

Tribunal President: Why didn't this group try to leave before they received the training?

Detainee: We thought things were normal and we did not think there was anything going on. Then when the events of September 11th happened, we did not want any problems. So we left. A lot of people stayed.

Tribunal President: How did you support yourself while at the camp or in Kabul?

UNCLASSIFIED//FOUO

Detainee: In the camp, there was food and drinks. Everything was at the camp's expense.

Tribunal President: Okay. When you were not at the camp, how did you support yourself?

Detainee: I had a little bit of money with me from Yemen.

Tribunal President: You said earlier when you went to the camp, your passport and money was taken away from you.

Detainee: They didn't take everything from us. They wouldn't take everything from us. We had a little bit left over or either the guards would give us a little bit back. Some of them did a little bit of good. Some of the people wanted to do good, so they would give some back. The Afghans liked the Arabs, so they would give us a little bit of food, a little bit of money. Families, I mean.

Tribunal President: So the people that gave you money were just Muslims, or were they Taliban, or Al Qaida?

Detainee: No. They were families or farmers or something like that. When we walked from Kabul to Khowst, they could tell who was an Arab. They recognized strangers not from the area. So they would give a little something to help. Sometimes you would go to buy something and the person would tell you that you did not have to pay for it - just go.

Tribunal President: When you were arrested in Pakistan, how did you get from the Pakistani police to the Americans?

Detainee: The Pakistani authorities handed us over to the Americans.

Tribunal President: Did you ever have the opportunity to talk with Usama Bin Laden?

Detainee: No. I did not want to and I never had a chance to. Not just anyone got to meet him. Just someone who was important, not just anyone can go in and just meet with Bin Laden. You had to be asked for, or someone important.

Tribunal President: Did you know anyone who met Usama Bin Laden?

Detainee: No. All the people there were like me. All the people I knew were amateurs. Nothing like Bin Laden.

Tribunal President: How did you find out about the events of 9/11?

Detainee: Of course we were going to hear about it. We are in an age where we have the news and reports.

ISN [REDACTED]
Enclosure (3)
Page 10 of 11

UNCLASSIFIED//FOUO

3918

UNCLASSIFIED//FOUO

Tribunal President: Did someone tell you about it? Did you read about it? Did you hear about it on the radio?

Detainee: No. People talked in the camp. People had radios.

Tribunal President: Was this after the events or before the events that you heard about it?

Detainee: After.

Tribunal President: Musab Omar, do you have any other evidence to present to the Tribunal?

Detainee: That is all I have. Other than I really hope you look at the evidence with consideration and fairness. I am sure of my statement and what I have said. I challenge anyone else to come and tell me anything else about what I have said.

Tribunal President: Personal Representative, do you have any other evidence or does the Detainee have any previously approved witnesses to present to the Tribunal?

Personal Representative: No, Ma'am.

Tribunal President: All unclassified evidence having been provided to this Tribunal, this concludes this Tribunal session.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Colonel, U.S. Army
Tribunal President

ISN [REDACTED]
Enclosure (3)
Page 11 of 11

UNCLASSIFIED

Combatant Status Review Board

TO: Tribunal Member

FROM: OIC, CSRT (8 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – Al Mudwani, Musab Omar Ali

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or Al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates the detainee was a member of Al Qaeda and participated in military operations against the coalition.
 - a. The detainee is an Al Qaeda fighter:
 1. In July 2001, Al Mudwani was recruited by two men, who identified themselves as former mujahid, to go to Afghanistan and train to fight.
 2. The detainee stated that he stayed at the Daftar Al-Taliban guesthouse for four hours, prior to going to Kandahar, where he stayed at the Madafat Al-Nibras guesthouse where he was fed and given new clothes.
 3. The detainee stated that after seven (7) days at the guesthouse in Kandahar, he traveled to the Al-Farouq training camp, a known Taliban training camp.
 4. The detainee stated that he received training on the Kalashnikov rifle, pistol, BEKA, RPG, and the Magnoona. The detainee stated that he only trained for twenty-five (25) days because the camp closed due to the U.S. bombing campaign.
 5. The detainee stated that he saw Usama Bin Laden (UBL) several times and at various training facilities during his time in Afghanistan and last saw Bin Laden in Khowst about a month before the fall of Kabul.
 - b. The detainee participated in military operations against the coalition.
 1. The detainee stated that he left Al-Farouq on a military bus with twenty-five (25) other students from Al-Farouq and went to Kabul.

UNCLASSIFIED

Page 1 of 2

EXHIBIT ³⁹²¹ R-1

UNCLASSIFIED

2. The detainee stated that he went to Kabul, and three days after his arrival, Kabul fell.

3. After the fall of Kabul, the detainee went to Pakistan where he was captured by the Pakistani police, after a shoot-out, on September 11, 2002.

4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Page 2 of 2
3922

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/09/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED] or Intelligence Analyst
[REDACTED]

Affidavit of [REDACTED]

Comes now, [REDACTED], under oath, and makes the following statement in Sana'a, Yemen:

I am eighteen years old. I am a student in my last year of school. My brother, Musaab Omar Al-Madhwani, is in Guantanamo Bay. He is about 23 years old now.

My father is a pharmacist. It is not like being in America, where they make a lot of money. Here, it is a very small shop and my father works hard but is not rich. My mother is a housewife. There are four boys and one girl in the family. Musaab is the third boy, and I am the youngest. Of my other two brothers, one works selling petrol, and the other is a pharmacist. They are not wealthy. None of the family is.

Musaab has always been a very popular child in our family, and he is my favorite brother. He used to help me with everything growing up, particularly in school. He graduated from the business school, and he would help me understand business. Anything I needed he would try to get for me.

My brother was not very religious, although he would go to Mosque.

Musaab always wanted to be a pharmacist, and the family had planned to open a pharmacy for him.

My brother went to Pakistan, and he called from Karachi on July 29, 2001. He had decided to go there to study. He used to call about every two months from Pakistan, and the last time he called was on August 30, 2002. He used to ask about the family, and tell us about how he was studying there. He never said anything about going to



Page 1 of 2

EXHIBIT R-3⁹²⁵

52

Afghanistan. I understand that my brother was arrested in Pakistan, although I have no reason to believe that he committed any crime.

We next heard about him when we got a letter from the Red Cross in January 2003 saying that he was in Guantanamo Bay. We have received some letters from my brother from Guantanamo Bay, although they have been censored. He would try to assure us that he was alright, and he would ask us to pray for him that he would leave the prison soon, since he had done nothing wrong.

The last letter we received was on July 29, 2003.

My brother's situation has made my mother very depressed, not eating and crying. Whenever anyone mentions his name she will cry, and she continually thinks that she was seeing him in front of her, imagining him. My father is also depressed. I am also very sad because I love my brother a great deal. Everyone in the family loves him, and desperately wants him to come back.

I know that my brother would want me to take whatever steps I could on his behalf and I wish to act as his next friend in court.

Signed this 10th day of April, 2004.



Witnessed: _____

Personal Representative Review of the Record of Proceedings

I acknowledge that on 26 September 2004, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]
Name

26 Sep 04
Date

[REDACTED]
Signature

ISN [REDACTED]
Enclosure (5)



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 696

16 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 840**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #840 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

~~FOR OFFICIAL USE ONLY~~

12 Jan 05

MEMORANDUM

From: Assistant Legal Advisor
To: Director, Combatant Status Review Tribunal
Via: Legal Advisor *SLC*

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN #840

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #15 of 12 Oct 2004
(2) Record of Tribunal Proceedings

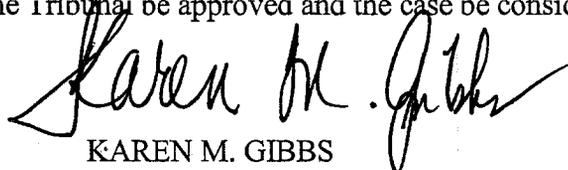
1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and voluntarily elected to affirmatively decline participation in the CSRT. However, the detainee did request that his Personal Representative provide detainee's responses to questions posed by the CSRT, which correlated to each finding contained Exhibit R-1, paragraph 3. *See* Enclosure (3). The CSRT regarded detainee's responses, as relayed by the Personal Representative, as an unsworn statement. *See* Enclosure (1).
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). However, Exhibit D-A specifically notes that the CSRT procedure was read to, or by, the detainee. The Personal Representative also signed the Detainee's Election Form. *See* Exhibit D-A. Therefore, this error appears to have had no effect on the detainee's rights, nor on the determination made by the CSRT.
- d. Note that some information in exhibits R-3 through R-4 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- e. Exhibits R-3 through R-5 contain handwritten notes in the margins. These notes appear to be aids in directing the Tribunal to the source of information contained in the Unclassified Summary provided to the detainee. These notes do not alter the evidence, nor do they affect the legal sufficiency of the evidence.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 840

- f. The detainee did not request that any witnesses or evidence be produced.
 - g. The Tribunal's decision that detainee #840 is properly classified as an enemy combatant was unanimous.
 - h. The detainee's Personal Representative was given the opportunity to review the record of proceedings, and declined to submit post-tribunal comments to the Tribunal.
2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.



KAREN M. GIBBS
CDR, JAGC, USNR

UNCLASSIFIED

UNCLASSIFIED

3931



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

30 November 2004

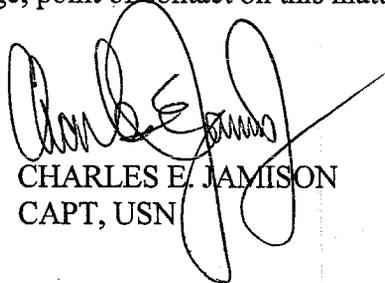
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 840

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN [REDACTED].



CHARLES E. JAMISON
CAPT, USN



Department of Defense
Director, Combatant Status Review Tribunals

12 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #15

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED] Colonel, U.S. Air Force; President

[REDACTED] Lieutenant Colonel, U.S. Air Force; Member
(JAG)

[REDACTED] Lieutenant Commander, U.S. Navy; Member

A handwritten signature in cursive script, reading "Jm McGARRAH", is positioned above the typed name.

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #15

(U) ISN#: 840

Ref: (a) (U) Convening Order for Tribunal #15 of 12 October 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U/~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/~~FOUO~~)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 1 November 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #840 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al Qaida or the Taliban, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, USAF

Tribunal President

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION**(Enclosure (1) to Combatant Status Review Tribunal Decision Report)**TRIBUNAL PANEL: #15
ISN #: 840 **1. Introduction**

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida or the Taliban. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the detainee traveled from Yemen to Afghanistan in November 2000 to fight the Jihad. While in Afghanistan he received housing and combat arms training at various al Qaida facilities. The detainee also assisted the Taliban in front line action near Kabul. The detainee considered participating in the Tribunal process when contacted by his Personal Representative (PR). During a follow-up interview with the PR, the detainee stated he did not want to attend the hearing and requested the PR present the detainee's responses to the unclassified evidence made during their interviews. The PR presented the detainee's unsworn statements which confirmed that the detainee traveled to Afghanistan to fight the Jihad and that he stayed in Taliban guesthouses. The detainee stated he only admitted to receiving combat training while in Afghanistan to end physical torture by Pakistani authorities. He continued this admission for fear of torture even after his transfer from Pakistani to US custody. The detainee changed his admission of combat training after he found out he would not be hurt or tortured in the US. He now denies ever receiving any military training. The detainee claimed his work in Afghanistan was to bring supplies to the front line during a one-week period. He did not participate in any fighting but admitted to receiving a weapon. The detainee's allegations of torture were forwarded to the appropriate authorities, in accordance with CSRT policy. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-18.
- b. Testimony of the following persons: none
- c. Sworn statement of the detainee provided by the Personal Representative.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested no witnesses; no ruling was required.

The Detainee requested no additional evidence be produced: no ruling was required.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's unsworn statements to the Personal Representative during his interviews with the detainee. A summarized transcript of the detainee's unsworn statements is attached as CSRT Decision Report Enclosure (3). In sum, the statements confirmed that the detainee traveled to Afghanistan to fight the Jihad and that he stayed in Taliban guesthouses. The detainee stated he only admitted to receiving combat training while in Afghanistan to end physical torture by Pakistani authorities. He continued this admission for fear of torture even after his transfer from Pakistani to US custody. The detainee changed his admission of combat training after he found out he would not be hurt or tortured in the US. He now denies ever receiving any military training. The detainee claimed his work in Afghanistan was to bring supplies to the front line during a one-week period. He did not participate in any fighting but admitted to receiving a weapon.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.

b. The detainee understood the Tribunal proceedings. The detainee chose not to participate in the Tribunal process, as indicated in Exhibit D-a. The detainee directed his Personal Representative to provide the Tribunal with his responses to the unclassified evidence.

c. The detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida or the Taliban.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large black rectangular redaction box covers the signature of the Tribunal President.

Tribunal President

Colonel, USAF

Summarized Unsworn Detainee Statement

[The detainee elected not to be present at this Tribunal]

Tribunal President: Personal Representative I understand that you have information to present to the Tribunal on the detainee's behalf.

Personal Representative: Yes sir. After the detainee looked at the unclassified evidence we went over the individual points. I will be grouping some of the points together as many of them are related.

Personal Representative: On the first two points:

3.a.1. (The detainee voluntarily traveled from Yemen to Afghanistan in November 2000 to fight the Jihad.)

3.a.2. (The detainee stayed at a Taliban guesthouse in Quetta, Pakistan during his travel to Afghanistan.)

Yes he did voluntarily travel from Yemen to Afghanistan. He noted that this was well before the September 11th 2001 attacks. He was there in November 2000 and he did admit that he went there to fight in the Jihad not against the Northern Alliance and against the Americans.

Regarding him staying in a Taliban guesthouse. Yes he did stay in a Taliban guesthouse. The Taliban was the recognized government by many countries prior to September 11th.

Personal Representative: 3.a.3 (The detainee stayed at an Al-Qaida guesthouse in Kandahar, Afghanistan.) He did stay at a guesthouse in Kandahar but had no idea or purpose or understanding that it was an Al-Qaida guesthouse. He stated many Arabs stayed there. It was before 2001 and there was no sign stating it was an Al-Qaida guesthouse.

Personal Representative: On 3.a.4. through 3.a.9. all relating to the training, I will group those together:

3.a.4. (The detainee trained at the Al-Farouq training camp.)

3.a.5. (While at the Al-Farouq camp; the detainee was trained on the Kalashnikov rifle, PK machinegun, Makarov pistol, and Rocket Propelled Grenades RPG's.)

3.a.6. (The detainee was also trained in trench digging, disguise, mountain climbing, map reading, and orienteering at Al-Farouq.)

3.a.7. (The detainee returned to the Al-Farouq camp for advanced training, which consisted of preparation for fighting and reconnaissance techniques.)

3.a.8. (The detainee was at Al-Farouq on the separate occasions when Usama Bin Laden lectured.)

3.a.9. (The detainee also received training at the Kandahar airport. This training was in personal security, survival skills, how to obtain a passport without drawing attention to one's self and how to get through customs.)

The detainee stated that when he was captured and brought to the Karachi prison lots of people were being tortured. The detainee had his papers and passport going into prison. He was told that he would go home. He was taken to a prison known as the prison of darkness. At that prison there was very bad torture conducted on people in there to include the detainee. He said his testicles were disfigured to the point where they cannot be repaired and he showed me some dark scar marks on his face and said they would never heal. He said the torture was so bad that he knew by making up and agreeing to the training that it would stop the torture. When he was first brought to the United States he was terrified thinking he would be tortured. Later he found out that he would not be hurt or tortured. This was true. As a result of the lessening of the fear he told the interrogators the truth about when he was in Afghanistan.

Personal Representative: On 3.a.10. through 3.a.13.

3.a.10. (The detainee assisted the Taliban on the front lines near Kabul, Afghanistan.)

3.a.11. (The detainee stated that he fought on the front lines for one week.)

3.a.12. (The detainee was in Afghanistan during the fall of Kabul.)

3.a.13. (The detainee was arrested in a guesthouse in Karachi, Pakistan on 11 September 2002.)

The detainee stated he was in Afghanistan for one week. He was only on the front lines for one week. He had no military experience therefore he was not put on the line permanently. There was no action or no fighting and he was there out of curiosity and to stand guard.

Tribunal Member: Did he say when this was roughly?

Personal Representative: He said he went to the front line in 2000. In 3.a.10., he said yes, but he had no experience, he was at the back of the lines and his functions were to bring supplies back and forth. He assisted with bringing the supplies and went to the front line for a one-week period. But he did not fight.

In 3.a.11., it states that he fought on the front lines. The detainee stated that he did not. There was no fighting but he was given a weapon.

On 3.a.12., yes he was in Afghanistan during the fall of Kabul and was subsequently arrested in Karachi Pakistan on 11 September 2002.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.

 _____
Col, USAF

Tribunal President

DETAINEE ELECTION FORMDate: 28 October 2004Start Time: 1345 hrsEnd Time: 1515 hrsISN#: 0840Personal Representative [REDACTED] MAJOR, USAF
(Name/Rank)Translator Required? YES Language? ARABICCSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES-----
Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Detainee desires to participate in the Tribunal, but has yet to decide in what capacity (oral, written, allow PR to present on his behalf). I will ask during follow-up interview. As it stands now, plan Tribunal as if detainee will be present. There are neither witnesses nor documentary evidence to submit. Detainee was very pleasant and respectful.

Personal Representative: [REDACTED]

1 Nov 04
MFR -- PR conducted a follow-up interview with detainee 0840. Detainee stated that he does not want to participate but would like his PR to present detainee's responses to the evidence.

EXHIBIT D-A

UNCLASSIFIED

Combatant Status Review Board

TO: Tribunal Members

FROM: OIC, CSRT (19 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL MAYTHALI, Ha II Aziz Ahmed

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is a member of the Taliban or al-Qaida.

The detainee is a member of the Taliban or al Qaida:

1. The detainee voluntarily traveled from Yemen to Afghanistan in November 2000 to fight the Jihad.
2. The detainee stayed at a Taliban guesthouse in Quetta, Pakistan during his travel to Afghanistan.
3. The detainee stayed at an al Qaida guesthouse in Kandahar, Afghanistan.
4. The detainee trained at the al Farouq training camp.
5. While at the al Farouq camp; the detainee was trained on the Kalashnikov rifle, PK machine gun, Makarov pistol, and Rocket Propelled Grenades (RPG's).
6. The detainee was also trained in trench digging, disguise, mountain climbing, map reading and orienteering at al Farouq.
7. The detainee returned to the al Farouq camp for advanced training, which consisted of preparation for fighting and reconnaissance techniques.
8. The detainee was at al Farouq on three separate occasions when Usama Bin Laden gave lectures.
9. The detainee also received training at the Kandahar airport. This training was in personal security, survival skills, how to obtain a passport without drawing attention to one's self and how to get through customs.

UNCLASSIFIED

3942¹⁰⁵²

Exhibit R-1

UNCLASSIFIED

10. The detainee assisted the Taliban on the front lines near Kabul, Afghanistan.
 11. The detainee stated that he fought on the front lines for one week.
 12. The detainee was in Afghanistan during the fall of Kabul.
 13. The detainee was arrested in a guesthouse in Karachi, Pakistan on 11 September 2002.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

Memorandum



To : Department of Defense Date 10/21/2004
Office of Administrative Review
for Detained Enemy Combatants
Capt. Juno Jamison, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN 840 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 11/01/2002
FD-302 dated 04/03/2003

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/21/2004

If you need additional assistance, please contact
Asst. Gen. Counsel [REDACTED]

[REDACTED] or Intelligence Analyst

[REDACTED]
Intelligence Analyst [REDACTED]
[REDACTED]

-2 of 2

3945

UNCLASSIFIED

Personal Representative Review of the Record of Proceedings

I acknowledge that on 06 November 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #840.

 I have no comments.

My comments are attached.


Name

8 NOV 04
Date


Signature

ISN #840

Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SA ID SALIH SA ID NASHIR, *et al.*

Petitioners,

v.

GEORGE W. BUSH,
President of the United States, *et al.*,
Respondents.

Civil Action No. 05-0023 (RWR)

DECLARATION OF TERESA A. McPALMER

Pursuant to 28 U.S.C. § 1746, I, Commander Teresa A. McPalmer, Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

1. I am the Legal Advisor to the Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) at U.S. Naval Base Guantanamo Bay, Cuba. In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.
2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Sa Id Salih Sa Id Nashir that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. An OARDEC staff member redacted information that would personally identify certain U.S. Government personnel in order to protect the personal security of those individuals. The OARDEC staff member also redacted internee serial numbers because certain combinations of internee serial numbers with other information relates to sensitive internal detention and

intelligence operations that is not suitable for public release.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 14 April 2005

Teresa A. McPalmer
Teresa A. McPalmer
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 794

29 JAN 2005

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]**

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:

NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

FOR OFFICIAL USE ONLY

3949

22 Jan 05

MEMORANDUM

From: Assistant Legal Advisor
To: Director, Combatant Status Review Tribunal
Via: Legal Advisor *SLC*

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #24 of 26 November 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and elected to participate. See exhibit D-a.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibit R-3 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee requested 1 witness. The Tribunal found the witness to be relevant and submitted a request to the U.S. State Department to locate the witness in Afghanistan. After a search by the U.S. Government's authorities in Afghanistan, it was determined that the detainee's witness could not be found. The Tribunal President therefore determines that the witness was not reasonably available. In my opinion, the Tribunal acted properly in determining that the witness was not reasonably available.
- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

3. I recommend that the decision of the Tribunal be approved and the case be considered final.

Peter C. Bradford
PETER C. BRADFORD
LT, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

26 Nov 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #24

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Air Force; President

[REDACTED], Lieutenant Colonel, U.S. Air Force;
Member (JAG)

[REDACTED], Lieutenant Commander, U.S. Navy; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

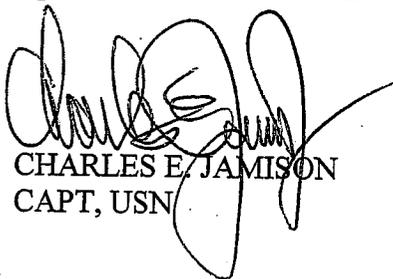
14 January 2005

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.



CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #24

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #24 of 26 November 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U/FOUO)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/OC/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/FOUO)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 8 December 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al Qaida and the Taliban, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]
[REDACTED], Colonel, USAF
Tribunal President

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #24
ISN #: _____**1. Introduction**

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and the Taliban. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the detainee traveled from Yemen to Kandahar, Afghanistan via Dubai, United Arab Emirates, Karachi and then Quetta, Pakistan. The detainee was recruited by an al Qaida facilitator and stayed in an al Qaida guesthouse in Quetta. The unclassified evidence also indicated the detainee attended the al Qaida run [REDACTED] weapons training camp from July to September 2001 where he attended two speeches by Usama Bin Laden (UBL). The detainee was an al Qaida guard at the Kandahar airport while armed with a Kalishnikov rifle. An al Qaida associate also identified the detainee as engaging U.S. coalition partners north of Kabul. Also, the detainee received \$1,000 US from an al Qaida operative for travel from Afghanistan to Yemen. Finally the unclassified evidence indicates the detainee was captured following a two and a half hour firefight in Karachi, Pakistan along with several other al Qaida members during raids on 11 September 2002. The detainee chose to participate in the Tribunal process. He called one witness, requested no document be produced, and did not make a verbal or written statement. The Tribunal President found the requested witness not reasonably available, and that alternative means of producing the witness's testimony were also not reasonably available. The Personal Representative provided the Tribunal statements by the detainee made during his prior interviews. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-19.
- b. Testimony of the following persons: none

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested the following witness be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
Mohktar	Not reasonably available	No*

* The Tribunal President explained to the detainee, on the record, he had determined this witness's testimony would be relevant, and asked the U.S. Government attempt to produce him. The CSRT Assistant Legal Advisor then used standard CSRT procedures to request the U.S. Department of State attempt to contact this individual. The U.S. Department of State replied that there was insufficient information on the witness to facilitate any diplomatic action to support the request. Also, the CSRT Assistant Legal Advisor contacted other U.S. agencies requesting their assistance in locating this witness. All agencies contacted provided either a negative or no reply to properly made requests for assistance. Therefore, since the location of the requested witness was unknown to the CSRT, the Tribunal President was forced to find this witness not reasonably available. Additional information regarding the identification of this witness and this ruling is addressed in CSRT Decision Report Enclosure (2).

The Detainee requested no additional evidence be produced: no ruling was required.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits (as well as the detainee's statement) for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's unsworn testimony from the Personal Representative's notes of his interviews with the detainee. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3) and the Personal Representative's notes of his interviews with the detainee are attached within Exhibit D-a. In sum, the detainee testified that he did not participate in a firefight in Karachi and he did not know anything about passports in the apartment where he was captured. The detainee also stated that he has never been in Kabul or fought north of that city.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

The CSRT Assistant Legal Advisor was consulted regarding the witness issue discussed above.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.

b. The detainee understood the Tribunal proceedings. He indicated that he understood the proceedings and participated in his hearing. He acknowledged the Personal Representative's summary of his prior statements concerning the unclassified summary evidence which was helpful to the Tribunal's understanding of the evidence.

c. The detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and the Taliban.

8. Dissenting Tribunal Member's Report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



, Colonel, USAF

Tribunal President

Summarized Unsworn Detainee Statement

The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had no questions.

The Recorder presented Exhibits R-1 thru R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

3.a. The detainee is associated with al Qaida and the Taliban:

3.a.1. Originally from Lahaj, Yemen, the detainee traveled to Kandahar, Afghanistan via San'aa, Yemen; Dubai, United Arab Emirates; Karachi, Pakistan; and Quetta, Pakistan.

3.a.2. The detainee was recruited in Al Baraida, Yemen by an al Qaida facilitator.

3.a.3. In late June 2001, while traveling from Yemen to Afghanistan, the detainee stayed in a Taliban guesthouse in Quetta, Pakistan.

3.a.4. The detainee attended basic training at [REDACTED] training camp from July to September 2001, where he received instruction in the Kalishnikov rifle, Rocket-Propelled Grenades (RPG), hand grenades, land mines, and explosives.

3.a.5. The detainee attended two speeches by Usama Bin Laden while, training at the [REDACTED] camp.

3.a.6. The detainee, armed with a Kalishnikov rifle, worked for al Qaida as a guard at the Kandahar airport.

3.a.7. The al Qaida members guarding the Kandahar airport armed with Anti-Aircraft guns, SA-7, Rocket Propelled Grenades (RPG), and AK-47s.

3.a.8. The detainee was given \$1,000 US by an al Qaida operative for travel from Afghanistan to his home country of Yemen.

3.a.9. The detainee was captured following a two and a half hour firefight in a Karachi, Pakistan apartment, along with several other members of al Qaida during raids on al Qaida safe houses on 11 September 2002.

3.a.10. Passports belonging to Usama Bin Ladin's family members were found at the suspected al Qaida residence on Tariq Road in Karachi, Pakistan during raids on 11 September 2002.

3.b. The detainee engaged in hostilities against the United States or its coalition partners:

3.b.1. According to an al Qaida associate, the detainee fought north of Kabul.

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

Tribunal President: Do you want to make a statement to the tribunal?

Detainee: No

Tribunal President: I understand.

Tribunal President: I also note from the detainee election form that your Personal Representative does have some remarks obtained during a previous interview. Do you approve of the Personal Representative restating that statement at this time?

Detainee: Some of it.

Tribunal President: I would like to ask the Personal Representative to read into the record what is also listed in the detainee election form for the Detainee to comment on.

Tribunal President: Before you begin the Detainee does not have to comment on this information if he so chooses. He should know that any information he can provide us would be very helpful to us. This tribunal panel has not read any other information about you. As you heard from the recorder we may receive other information at another time; but at this time all we know is the unclassified summary information-- the same information that you were read previously by your Personal Representative. And, I believe the Personal Representative's comments relate to your previous information to him responding to the unclassified summary. Personal Representative you may proceed.

Personal Representative: During our initial interview on 8 November 2004, the Detainee stated to me that he did not participate in the firefight in Karachi. He also said he did not know anything about passports that were in the apartment in which he was captured and that he had nothing to do with those documents. He also stated that he had never been to Kabul and that he had never fought north of Kabul. That concludes the notes.

Tribunal President: Said Salih, do you have any other comments to make regarding the Personal Representative's remarks?

Detainee: No.

The Personal Representative and the Recorder had no further questions.

The Tribunal Members' had no question for the Detainee.

The Tribunal President confirms that the Detainee and the Personal Representative had no further evidence or witnesses to present to the Tribunal. The Tribunal

President explains the remainder of the Tribunal process to the Detainee and adjourns the Tribunal.

The Detainee did not take the Muslim oath.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Colonel, United States Air Force
Tribunal President

DETAINEE ELECTION FORM

Date: 08 November 04

Start Time: 1500

End Time: 1550

ISN#: [REDACTED]

Personal Representative: [REDACTED] Major, USAF
(Name/Rank)

Translator Required? YES Language? ARABIC

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Detainee # [REDACTED] was briefed on the CSRT process and he acknowledged that he understood it. He elected to participate but he said that he needed more time to think about witnesses and how to get in touch with them. After a follow-up interview with the detainee, he requested a witness for his case. The witness, Mohktar, was approved as relevant by the Tribunal President but the *witness* [REDACTED] ~~detainee~~ was later determined to be "not readily available."

Detainee # [REDACTED] stated that he did not participate in the firefight in Karachi. He also did not know anything about passports that were in the apartment that he was captured in and that he had nothing to do with them. He stated that he had never been to Kabul and he had never fought North of Kabul.

Personal Representative: [REDACTED]
UNCLASSIFIED//FOUO [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (22 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – NASHIR, Sa Id Salih Sa Id

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States indicating that the detainee is associated with al Qaida and the Taliban, and engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is associated with al Qaida and the Taliban:
 1. Originally from Lahaj, Yemen, the detainee traveled to Kandahar, Afghanistan via San'aa, Yemen; Dubai, United Arab Emirates; Karachi, Pakistan; and Quetta, Pakistan.
 2. The detainee was recruited in Al Boraida, Yemen by an al Qaida facilitator.
 3. In late June 2001, while traveling from Yemen to Afghanistan, the detainee stayed in a Taliban guesthouse in Quetta, Pakistan.
 4. The detainee attended basic training at [REDACTED] training camp from July to September 2001, where he received instruction in the Kalishnikov rifle, Rocket-Propelled Grenades (RPG), hand grenades, land mines, and explosives.
 5. The detainee attended two speeches by Usama Bin Laden while, training at the [REDACTED] camp.
 6. The detainee, armed with a Kalishnikov rifle, worked for al Qaida as a guard at the Kandahar airport.
 7. The al Qaida members guarding the Kandahar airport were armed with Anti-Aircraft guns, SA-7s, Rocket Propelled Grenades (RPG), and AK-47s.

UNCLASSIFIED

3962

UNCLASSIFIED

8. The detainee was given \$1,000 US by an al Qaida operative for travel from Afghanistan to his home country of Yemen.

9. The detainee was captured following a two and a half hour firefight in a Karachi, Pakistan apartment, along with several other members of al Qaida during raids on al Qaida safehouses on 11 September 2002.

10. Passports belonging to Usama Bin Ladin's family members were found at the suspected al Qaida residence on Tariq Road in Karachi, Pakistan during raids on 11 September 2002.

b. The detainee engaged in hostilities against the United States or its coalition partners:

1. According to an al Qaida associate, the detainee fought North of Kabul.

4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

Memorandum



To : Department of Defense Date 10/21/2004
Office of Administrative Review
for Detained Enemy Combatants
Capt. Juno Jamison, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 11/01/2002

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/21/2004

If you need additional assistance, please contact
Asst. Gen. Counsel [REDACTED]
[REDACTED] or Intelligence Analyst
[REDACTED]
[REDACTED] Intelligence Analyst [REDACTED]
[REDACTED]

Personal Representative Review of the Record of Proceedings

I acknowledge that on 27 December 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

[REDACTED] have no comments.

My comments are attached.

[REDACTED]
[REDACTED] Major, USAF

27 Dec 04
Date

ISN # [REDACTED]
Enclosure (5)